

REMARKS/ARGUMENTS

Claims 23, 25-28 and 33, and 35-42 are active in this application.

Claim 23 has been amended to incorporate the limitations of Claim 43.

No new matter has been added.

The rejection under 35 USC 112, second paragraph is no longer applicable.

The relationship between the pyruvate oxidase and the activity has been clarified such that it is clear that the gene encodes a protein that prior to inactivation has the defined activity.

The relationship between concentrating and isolating in the steps of Claim 23 are clear in that the isolated L-amino acid are those that were concentrated in the earlier step.

The aspect of PCR amplification is not present in the claims.

Accordingly, withdrawal of these rejections is requested.

The rejection of Claim 30 under 35 USC, 112 first paragraph is no longer applicable as Claim 30 has been cancelled.

The rejection under 35 USC 112, first paragraph (item [7] page 5 of the Action) is not applicable to the pending claims.

The relationship between concentrating and isolating in the steps of Claim 23 are clear in that the isolated L-amino acid are those that were concentrated in the earlier step. AS has been noted in previous replies, support for concentration and isolation as in the claims if found, e.g., on page 25 of the specification as originally filed.

The aspect of PCR amplification is not present in the claims.

Withdrawal of this rejection is requested.

The rejection under 35 USC 112, first paragraph (item [8] and [9] pages 6 and 9 of the Action) is not applicable to the pending claims.

The aspect of PCR amplification is not present in the claims.

The gene prior to inactivation is defined according to the coding sequence that codes for the specific protein sequence described in the specification, i.e., SEQ ID NO:2.

Withdrawal of this rejection is requested.

To the provisional rejections under the doctrine of obviousness-type double patenting, Application serial nos. 10/483,416, 10/481,631, 10/616,309, 10/481,823, 10/114,048 and 10/186,999 ([c], [h], [o], [q] [w] and [z]) have been abandoned.

U.S. application 10/114,073 ([y]) has issued as U.S. patent no. 7,052,883 and a terminal disclaimer was already filed however, another copy is attached.

With respect to the remaining co-pending applications, Applicants request that these rejections be held in abeyance since the alleged conflicting claims have not yet been patented—see MPEP § 822.01.

Should the Examiner wish to discuss any aspect of this application, he is invited to contact the Applicants' undersigned representative.

A Notice of Allowance is requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon



Daniel J. Pereira, Ph.D.
Registration No. 45,518

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)